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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 UNITED STATES OF AMERICA,

Case No. 2:20-cr-00156-RFB-DJA-2

8 Plaintiff,

ORDER

9 v.

10 JOSE ALFREDO AYALA-FLORES,

11 Defendant.
12

13 Before the Court is Defendant Jose Ayala-Flores' *pro se* letter requesting the Court review
14 his case to determine his eligibility for a sentence reduction (ECF No. 618). The Court construes
15 this as a Motion for a Sentence Reduction under 18 U.S.C. § 3582(c)(2). For the following
16 reasons, the motion is denied.

17 On November 3, 2023, the Court imposed a sentence of sentence of 195 months of
18 incarceration on Mr. Ayala-Flores for one count of conspiracy to distribute a controlled
19 substance. See ECF Nos. 559, 561; see also 21 U.S.C. §§ 841, 846. On April 4, 2023, Mr. Ayala-
20 Flores filed the instant *pro se* Motion for Sentence Reduction. ECF No. 618. On May 6, 2023,
21 the Federal Public Defender filed a notice of non-eligibility. ECF No. 621.

22 The Court now turns to the merits of Mr. Ayala-Flores' motion. He argues he is potentially
23 eligible for resentencing following Amendment 821 to the guidelines. Courts may modify a term
24 of imprisonment, once imposed, "in the case of a defendant who has been sentenced to a term of
25 imprisonment based on a sentencing range that has subsequently been lowered[.]" 18 U.S.C. §
26 3582(c)(2). However, "the court shall not reduce the defendant's term of imprisonment under 18
27 U.S.C. § 3582(c)(2) . . . to a term that is less than the minimum of the amended guideline range."
28 U.S.S.G. § 1B1.10(b)(2)(A).

1 Amendment 821 of the guidelines retroactively reduced sentences in two relevant ways.
2 First, U.S.S.G. § 4C1.1 was created, which provides a two-point reduction of the offense level
3 for certain people without any criminal history points (known as “zero-point offenders”).
4 Second, U.S.S.G. § 4A1.1 was amended the calculation of criminal history points when the
5 underlying offense was committed while under another sentence (known as “status points”).
6 Individuals with six prior status points now receive no additional criminal history points and
7 those with seven or more receive a single criminal history point enhancement.

8 The final Presentencing Report furnished the following, relevant information concerning
9 the calculation of Mr. Ayala-Flores’ criminal history category. In 2011, Mr. Ayala-Flores was
10 found guilty of 2010 attempted murder in a California court. He was sentenced to six years of
11 incarceration. He was paroled in June 2015 and discharged from parole as a result of his
12 deportation in August 2015. The United States Sentencing Guidelines impose 3 criminal history
13 points for a prior sentence of over a year. See U.S.S.G. § 4A1.1. As a result, his 2010 conviction
14 provided 3 criminal history points which resulted in a criminal history category of II. See
15 U.S.S.G. § 5A. Based on an offense level of 41 and a history category of II, the guideline range
16 was 360 months to life in prison. See id. (providing the sentencing table). At the sentencing
17 hearing, the Court applied a four offense point reduction for the group plea. That produced a
18 final guideline calculation of 37 offense points and a criminal history category of II, for 235 to
19 293 months of incarceration. The Court imposed a sentence of 195 months of incarceration.

20 As the discussion above shows, Mr. Ayala-Flores received no enhancements for status
21 points nor was he a zero-point offender. Further, even if Mr. Ayala-Flores could reduce his
22 criminal history to Category I, that would produce a sentencing range of 210-262 months, which
23 remains greater than his current sentence of 195 months. See U.S.S.G. § 5A. In sum, the Court
24 finds that Mr. Ayala-Flores was not sentenced to a term of imprisonment based on a sentencing
25 range that has subsequently been lowered. Therefore, he does not qualify for a sentence
26 reduction under 18 U.S.C. § 3582(c)(2).

27 For the foregoing reasons, **IT IS ORDERED** that Defendant Jose Ayala-Flores’ *pro se*
28 Motion for Sentence Reduction (ECF No. 618) is **DENIED**.

1 **IT IS FURTHER ORDERED** that the Clerk of Court will provide Defendant a physical
2 courtesy copy of this Order by first-class United States postage.

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4 **DATED:** December 17, 2024.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE